

APPENDIX II      EXISTING VERSION OF RSA 162-F

1.

Chapter	Public Safety and Welfare - Electric Power Plant, Transmission Siting and Construction Procedure
Subdivision	There is none for this article
Section	162-F:1 Declaration of Purpose

I. The legislature finds that the present and predicted growth in electric power demands in the state of New Hampshire requires the development of a procedure for the selection and utilization of sites for generating facilities and the identification of a state position with respect to each proposed site. The legislature recognizes that the selection of sites and the routing of associated transmission lines will have a significant impact upon the welfare of the population, the location and growth of industry and the use of the natural resources of the state. The legislature, accordingly, finds that the public interest requires that it is essential to maintain a balance between the environment and the need for new power sources; that electric power supplies must be constructed on a timely basis; that in order to avoid undue delay in construction of needed facilities and to provide full and timely consideration of environmental consequences, all electric entities in the state should be required to engage in adequate long-range planning and provide full and complete disclosure to the public of such plans; that a certifying body be established for the preconstruction review of bulk power supply facility sites and all related bulk power supply facilities; that the siting of bulk power plants and high voltage transmission lines should be treated as a significant aspect of land-use planning in which all environmental, economic and technical issues should be resolved in an integrated fashion; that existing laws do not provide an adequate procedure for the coordination of reviews to assure protection of environmental values and certifying the construction, operation or maintenance of bulk power supply facilities so as to assure the state an adequate and reliable supply of electric power in conformance with sound environmental utilization; and that existing laws do not provide adequate public voice in the decision on the location of bulk power supply facilities at a specific site. The legislature, therefore, hereby establishes a procedure for the planning, siting, and construction of bulk power supply facilities.

II. The legislature further recognizes that to ensure the safety and well-being of the public and of future generations, a costly and comprehensive decommissioning procedure is necessary at the end of the useful or serviceable life of nuclear electric generating facilities. Because the costs are substantial and because these costs are the direct and predictable result of operating such a facility and should not have to be borne by the state; it is found to be in the public interest to require that adequate fiscal responsibility be established to ensure proper and safe decommissioning and subsequent surveillance of nuclear reactor sites to the extent necessary to prevent such sites from constituting a hazard to future generations. The legislature, therefore, hereby establishes a procedure which will provide assurance of adequate funding by utilities for the decommissioning of those nuclear electric generating facilities which complete their anticipated energy-producing lives.

**SOURCE**

1971, 357:1. 1981, 109:1, eff. May 4, 1981.

2.  
Chapter Public Safety and Welfare - Electric Power Plant,  
Transmission Siting and Construction Procedure  
Subdivision There is none for this article  
Section 162-F:1-a Oil Refineries

[Repealed 1974, 39:2, eff. April 5, 1974, superseded by RSA 162-H.]

3.  
Chapter Public Safety and Welfare - Electric Power Plant,  
Transmission Siting and Construction Procedure  
Subdivision There is none for this article  
Section 162-F:2 Definitions

I. "Bulk power supply facilities" means:

(a) Electric generating station equipment and associated facilities designed for or capable of operation at a capacity of 50 megawatts or more;

(b) An electric transmission line of a design rating of 100 kilovolts or more, associated with a generating facility outlined in (a), over a route not already occupied by a transmission line or lines;

(c) An electric transmission line of a design rating in excess of 100 kilovolts that is in excess of 10 miles in length over a route not already occupied by a transmission line or electric transmission lines of a design rating in excess of 100 kilovolts which the site evaluation committee determines should require a certificate because of a substantial environmental impact. [Amended 1983, 71:1, eff. July 19, 1983.]

II. "Site evaluation committee" means the bulk power supply site evaluation committee established by this chapter.

III. "Commission" means the New Hampshire public utilities commission.

IV. "Person" means any individual, group, firm, partnership, corporation, cooperative, municipal, political subdivision, government agency, or other organization.

V. The words "public utility" or "utility" means any electric utility engaged in the production, distribution, sale, delivery or furnishing of electricity, including municipalities, cooperatives, regulated electric companies, agencies or any combination thereof.

VI. "Commencement of construction" means any clearing of the land, excavation or other substantial action that would adversely affect the natural environment of the site or the route but does not include land surveying, optioning or acquiring land, rights in land; changes desirable for the temporary use of the land for public recreational uses; necessary borings to determine foundation conditions or other preconstruction monitoring to establish background information related to the suitability of the site or to the protection of environmental use and values.

SOURCE

1971, 357:1, eff. date, see note set out under RSA 162-F:1.

28.

Chapter	Public Safety and Welfare - Electric Power Plant, Transmission Siting and Construction Procedure
Subdivision	There is none for this article
Section	162-F:3 Site Evaluation Committee

The bulk power supply facility site evaluation committee shall consist of the commissioner of environmental services or his designee, the commissioner of resources and economic development, the director of the division of public health services, the executive director of fish and game, the director of the office of state planning, the director, division of water resources, department of environmental services, the director of the division of air resources, the director of the division of parks, the director of the division of forests and lands, the commissioner of transportation, the chairman of the public utilities commission and the chief engineer of the public utilities commission. The commissioner of environmental services shall be the chairman of the site evaluation committee. Notwithstanding any other agency authority, no member may delegate a voting right to others.

#### SOURCE

1971, 357:1. 1973, 587:3. 1983, 71:2. 1985, 62:1. 1986, 202:6, I(c), (f)-(h). 1989, 339:20, eff. Jan. 1, 1990.

4.

Chapter	Public Safety and Welfare - Electric Power Plant, Transmission Siting and Construction Procedure
Subdivision	There is none for this article
Section	162-F:4 Plans

Each utility shall prepare annually its long-range plans for bulk power supply facilities pursuant to guidelines established by the public utilities commission within 90 days after enactment hereof provided that such guidelines shall be approved by the site evaluation committee which may make such modifications as it may deem necessary within the purposes of this chapter. These plans may be part of a regional plan and shall:

I. Describe the general location, size and type of all bulk power supply facilities to be owned or operated by such utility and whose construction is projected to commence during the ensuing 10 years or during such longer period, but not to exceed a total of 15 years, as the commission may determine to be necessary, together with an identification of all existing facilities to be removed from utility service through such period or upon completion of construction of such bulk power supply facilities.

II. Identify the location of tentative sites for the construction of future power plants as defined in RSA 162-F:2, I, including an inventory of sites for all plants on which construction may be commenced in the succeeding 5 years, and the general location of the routes of transmission lines as defined in RSA 162-F:2, I and indicate the relationship of the planned sites, routes, and facilities thereon to the environment.

II-a. Identify the location of tentative sites for the construction of future

power plants as defined in RSA 162-F:2, I, including an inventory of sites for all plants on which construction may be commenced in the succeeding 5 years, and the general location of the routes of transmission lines as defined in RSA 162-F:2, I and indicate the relationship of the planned sites, routes, and facilities thereon to the environmental values and describe generally how potential adverse effects on such values will be lessened. Such sites shall be indicated in relation to the location of existing plants and tentative sites planned or announced by utilities within a 200 mile radius of the site.

III. Reflect and describe such utility's efforts to involve environmental protection and land-use planning agencies in their planning process so as to identify environmental problems at the earliest possible stage in the planning process.

IV. Supply such additional information as the site evaluation committee, upon the advice of interested state and federal agencies, may from time to time prescribe to carry out the purposes of this chapter.

V. Each utility shall have initial public notice of its plans referred to in paragraph I by filing annually a copy of such plans, together with its projections of demand for electricity that the facilities would meet, with the public utilities commission and with such other affected state and local governmental authorities and citizens' environmental protection and resource planning groups requesting such plans.

#### SOURCE

1971, 357:1, eff. date, see note set out under RSA 162-F:1.

#### 5.

Chapter	Public Safety and Welfare - Electric Power Plant, Transmission Siting and Construction Procedure
Subdivision	There is none for this article
Section	162-F:5 Review; Hearing

Upon receipt of plans referred to in RSA 162-F:4, I, the public utilities commission shall notify the site evaluation committee which shall:

I. Review and comment on the long-range plans and make information contained therein readily available to the general public and interested state and local governmental entities;

II. Compile and publish a description of the proposed power plant sites and general locations of transmission line routes within the state as identified in the long-range plans, identifying the location of such sites and the possible year when construction is expected to commence and to make such information readily available to the public, to each newspaper regularly circulated within the area affected by the proposed site, and to interested state and local governmental entities. The duties imposed by this paragraph may be delegated to the public utilities commission, and all documents filed under this chapter shall be held in the offices of the public utilities commission;

III. After public notice, conduct within 90 days of the date of filing a public hearing with respect to any proposed power plant site identified 5

years in advance of construction and decide whether or not any such sites should be approved for inclusion within the utility's 5 year inventory of sites. The basis for such decision shall be whether or not the construction of any plant at the proposed site would unduly impair important environmental values, and the decision shall be rendered within 6 months of the date the site is identified. Provided, however, a hearing shall not be held with respect to a site approved by the site evaluation committee pursuant to this chapter.

**SOURCE**

1971, 357:1, eff. date, see note set out under RSA 162-F:1.

**6.**

Chapter	Public Safety and Welfare - Electric Power Plant, Transmission Siting and Construction Procedure
Subdivision	There is none for this article
Section	162-F:6 Prohibition

I. After the effective date of this chapter, no electric utility shall commence to construct any bulk power supply facility within the state unless it has obtained a certificate of site and facility, with respect to those facilities, issued by the public utilities commission. Such facilities shall be constructed, operated and maintained in accordance with the terms of the certificate. Provided, however, that for 4 years from the effective date of this chapter, for good cause shown, all requirements in regard to scheduling of applications, hearings, approvals, and issuing of certificates may be shortened to allow commencement of construction to assure in-service dates for bulk power facilities which are needed to meet projected demands for electricity. No certificate is required for bulk power facilities already under construction or in operation on said effective date, but such certificates are required for sizable additions thereto as defined by the commission.

II. All applications for a certificate of site and facility shall be filed with the commission not less than 16 months prior to the planned date of commencement of construction of the facilities affected, and such plans may be subject to reasonable modification during the period of review. As a prerequisite to such filing, except for good cause shown as determined by the site evaluation committee, the electric utility shall have complied with the provisions of RSA 162-F:4; and with respect to power plants and transmission line routes, except for good cause shown as determined by the site evaluation committee, shall have complied with the requirement that the site selected is from among those sites in the electric utility's 5-year inventory of sites approved by the site evaluation committee and that it will utilize the general transmission line routes identified in its long-range plans. [Amended 1983, 71:3, eff. July 19, 1983.]

III. The commission, after approval by the site evaluation committee, shall adopt rules under RSA 541-A establishing a fee schedule for the processing of applications under this chapter. The fees required by the paragraph shall be paid at the time the application is filed and shall be deposited with the state treasurer as restricted revenue for use by the committee in the processing of applications as provided for in RSA 162-F:7, V. [Added 1985, 62:2, eff. June 28, 1985.]

SOURCE

1971, 357:1, eff. date, see note set out under RSA 162-F:1.

7.

Chapter	Public Safety and Welfare - Electric Power Plant, Transmission Siting and Construction Procedure
Subdivision	There is none for this article
Section	162-F:7 Public Hearing; Studies; Rules

I. Within 60 days after receipt of an application for a certificate of site and facility, pursuant to RSA 162-F:6, the site evaluation committee and the commission shall hold a joint public hearing in each county in which the proposed facility is to be located and shall publish a public notice not less than 21 days before said hearing in one or more newspapers having a regular circulation in the county in which the hearing is to be held, describing the location of the proposed facilities. Such public hearing shall be a joint hearing, with representatives of such other agencies as have jurisdiction over the subject matter and shall be deemed to satisfy all initial requirements for public hearings under statutes requiring permits relative to environmental impact. The hearing shall be for public information on the proposed facilities with the applicant presenting the information to the site evaluation committee and to the public. Only site evaluation committee members shall ask questions for clarification regarding the proposed facility at the hearing. [Amended 1983, 71:4, eff. July 19, 1983.]

I-a. Subsequent hearings shall be in the nature of adversary proceedings and may be held in the county or one of the counties in which the proposed facility is to be located or in Concord, New Hampshire, as determined by the site evaluation committee. [Added 1983, 71:5, eff. July 19, 1983.]

II. The site evaluation committee and the commission shall consider and weigh all evidence presented at public hearings and shall consider and weigh written information and reports submitted to it by members of the public before, during, and subsequent to public hearings. The committee and the commission shall grant free access to records and reports in its files to members of the public during normal working hours and shall permit copies of such records and reports to be made by interested members of the public at their expense.

III. The site evaluation committee and the commission shall require such information from applicant utilities as it deems necessary to accompany applications for certificates of site and facility and to assist the conduct of hearings and any investigation or studies as it may undertake.

IV. No additional application shall be required of an applicant to satisfy the permit application requirements of individual agencies and departments of the state, and applications shall contain sufficient information to satisfy the requirements of individual agencies and departments having jurisdiction over the proposed construction.

V. The site evaluation committee and the commission shall jointly conduct such reasonable studies and investigations as they deem necessary or appropriate to carry out the purposes of this chapter and may employ a consultant or consultants, legal counsel and other staff in furtherance of the duties

imposed by this chapter, the cost of which shall be borne by the applicant in such amount as may be approved by the commission. The site evaluation committee, the commission, and counsel for the public as provided for by RSA 162-F:9 are further authorized to assess the applicant for all travel and related expenses associated with the processing of an application under this chapter. [Amended 1982, 42:119. 1983, 71:6, eff. July 19, 1983.]

VI. The site evaluation committee and the commission shall jointly issue such rules and regulations, after public notice and hearing, as may from time to time be required to carry out the provisions of this chapter.

VII. EXEMPTION. For a period of 4 years from the effective date of this chapter bulk power supply facilities owned or owned upon amortization by a municipality and located entirely within the geographical limits of the municipality shall be exempt from the provisions of this chapter.

**SOURCE**

1971, 357:1. 1973, 587:4, 5, eff. Sept. 4, 1973.

**8.**

Chapter	Public Safety and Welfare - Electric Power Plant, Transmission Siting and Construction Procedure
Subdivision	There is none for this article
Section	162-F:8 Findings

I. The site evaluation committee shall send its findings to the commission within 14 months of the filing of an application for a certificate of site and facility. Findings by the site evaluation committee to the commission shall be made after a vote of the site evaluation committee. A majority vote of the site evaluation committee shall be conclusive on all questions of siting, land use, air and water quality. The site evaluation committee, after having considered available alternatives and the environmental impact of the site or route, must find that the site and facility:

(a) Will not unduly interfere with the orderly development of the region with due consideration having been given to the views of municipal and regional planning commissions and municipal legislative bodies;

(b) Will not have an unreasonable adverse effect on esthetics, historic sites, air and water quality, the natural environment, and the public health and safety. [Amended 1983, 71:7, eff. July 19, 1983.]

II. The commission shall issue or deny a certificate. The commission shall issue a certificate only after it has reasonable assurance that all applicable state standards and requirements shall be met by the applicant. The commission shall incorporate in its certificate such lawful terms as may be supplied to it by the site evaluation committee and those state agencies having permit or license granting responsibilities under state law. The commission shall be bound by the findings of the site evaluation committee under paragraph I. In its decision, the commission must find that the construction of the facility:

(a) Is required to meet the present and future need for electricity. A finding that the construction of the facility is required to meet the present



and future need for electricity may be based upon a determination of need for capacity to generate electricity, need for a greater supply of energy, or need for more economic, reliable, or otherwise improved sources of either capacity or energy. The commission shall consider economic factors when considering whether or not the facility will meet the present and future needs for electricity;

(b) Will not adversely affect system stability and reliability factors.  
[Amended 1983, 71:8, eff. July 19, 1983.]

III. Before a certificate may be issued by the commission, both the site evaluation committee and the commission shall have determined that the requirements of RSA 162-F:8, I and II have been met. In the consideration of applications for certificates of site and facility, the site evaluation committee and the commission shall assure full public review and adequate consideration of all environmental values and other relevant factors bearing on whether the objectives of this chapter would be best served by the issuance of the certificate. The site evaluation committee and the commission may consult with interested regional agencies and agencies of border states in the issuance of such certificates. [Amended 1983, 71:9, eff. July 19, 1983.]

IV. A certificate of site and facility shall either be issued or denied by the commission within 16 months of the date of the application being submitted and may contain such reasonable terms and conditions as it deems necessary and may provide for such reasonable monitoring procedures as may be necessary. Such certificates, when issued, shall be final and subject only to judicial review.

#### SOURCE

1971, 357:1. 1973, 587:6, 7, eff. Sept. 4, 1973.

#### 9.

Chapter	Public Safety and Welfare - Electric Power Plant, Transmission Siting and Construction Procedure
Subdivision	There is none for this article
Section	162-F:8-a Temporary Suspension of Deliberations

If the site evaluation committee, at any time during its deliberations relative to a application for a certificate of site and facility, deems it to be in the public interest, the site evaluation committee may temporarily suspend its deliberations and request the commission to exercise its duties under this chapter. After deliberations have been so suspended, if the commission finds that the requirements of RSA 162-F:8, II have been met and so notifies the site evaluation committee, the site evaluation committee shall resume its deliberations under this chapter.

#### SOURCE

1983, 71:10, eff. July 19, 1983.

#### 10.

Chapter	Public Safety and Welfare - Electric Power Plant, Transmission Siting and Construction Procedure
Subdivision	There is none for this article
Section	162-F:9 Counsel for the Public

After the commission has received an application, filed pursuant to RSA 162-F:6 hereof, the attorney general shall appoint an assistant attorney general as a counsel for the public. The counsel shall represent the public and its interests in protecting the quality of the environment and in the assurance of an adequate electric power supply for the duration of the certification proceedings and until such time as the certification is issued or denied. He shall be accorded all the rights, privileges and responsibilities of an attorney representing a party in a formal action. This section shall not be construed to prevent any person from being heard or represented by counsel in accordance with other provisions of this chapter.

**SOURCE**

1971, 357:1, eff. date, see note set out under RSA 162-F:1.

**11.**

Chapter	Public Safety and Welfare - Electric Power Plant, Transmission Siting and Construction Procedure
Subdivision	There is none for this article
Section	162-F:10 Review

Decisions of the site evaluation committee and the commission shall be reviewed pursuant to RSA 541.

**SOURCE**

1971, 357:1, eff. date, see note set out under RSA 162-F:1.

**12.**

Chapter	Public Safety and Welfare - Electric Power Plant, Transmission Siting and Construction Procedure
Subdivision	There is none for this article
Section	162-F:11 Separability

If any provision or clause of this chapter, or application thereof to any person or circumstances, is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provisions or application, and to this end, the provisions of this chapter are declared to be severable. Each section of this chapter shall be separable from all other sections hereof and the nullification of any section of this chapter shall have no effect upon the remaining sections of this chapter.

**SOURCE**

1971, 357:1, eff. date, see note set out under RSA 162-F:1.

**13.**

Chapter	Public Safety and Welfare - Electric Power Plant, Transmission Siting and Construction Procedure
Subdivision	There is none for this article
Section	162-F:12 Revocation; Suspension

Any certificate granted hereunder may be revoked or suspended:

I. For any material false statement in the application or in the supplemental or additional statements of fact or studies required of the applicant.

II. For failure to comply with the terms or conditions of the certificate.

III. For violation of the provisions of this chapter, regulations issued thereunder, or order of the commission.

**SOURCE**

1971, 357:1, eff. date, see note set out under RSA 162-F:1.

**14.**

Chapter	Public Safety and Welfare - Electric Power Plant, Transmission Siting and Construction Procedure
Subdivision	There is none for this article
Section	162-F:13 Penalties

I. The superior court in term time or on vacation may enjoin any act in violation of this chapter.

II. Any construction or operation of bulk power facilities in violation of this chapter, or in material violation of the terms of a certificate issued hereunder, may result in the assessment of damages not to exceed \$10,000 for each day of such violation.

III. Whoever commits any wilful violation of any provision of this chapter shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.

**SOURCE**

1971, 357:1. 1973, 529:30, eff. at 11:59 P.M., Oct. 31, 1973.

**15.**

Chapter	Public Safety and Welfare - Electric Power Plant, Transmission Siting and Construction Procedure
Subdivision	Decommissioning of Nuclear Electric Generating Facilities
Section	162-F:14 Definitions

As used in this subdivision:

I. "Committee" means a nuclear decommissioning financing committee established pursuant to RSA 162-F:15.

II. "Decommissioning of a nuclear electric generating facility" means, but is not limited to, any or all of the following as may be required by any federal or state agency with jurisdiction when any radioactive portion of the facility is permanently removed from service:

(a) Removal, relocation, shipment, containment, demolition, dismantling or storage or a combination thereof of any radioactive equipment, materials, nuclear wastes or contaminated structures and future and present storage of radioactive debris.

(b) Restoration and rehabilitation of the physical and aesthetic appearance of the decommissioning site.

III. "Facility" means any nuclear electric generating facility subject to decommissioning pursuant to this subdivision.

IV. "Fund" means a nuclear decommissioning financing fund established pursuant to RSA 162-F:19.

V. "Lead company" means the utility designated by the owner or owners of the facility.

**SOURCE**

1981, 109:2. 1985, 141:1, eff. July 19, 1985.

**16.**

Chapter	Public Safety and Welfare - Electric Power Plant, Transmission Siting and Construction Procedure
Subdivision	Decommissioning of Nuclear Electric Generating Facilities
Section	162-F:15 Committee Established

I. A nuclear decommissioning financing committee shall be established for each nuclear electric generating facility which is required to be approved under this chapter.

II. Each committee shall consist of one person who is a resident of the town or city in which the facility is to be located and who shall be appointed by the selectmen of the town or the mayor and council of the city, the chairman of the public utilities commission, the chairman and the vice-chairman of the legislative fiscal committee, the state treasurer or his designee, the commissioner of the department of safety or his designee, and a representative of the lead company as designated by the owner or owners of the facility.

III. The person appointed by the selectmen of the town or the mayor and council of the city shall serve a 3-year term and any vacancy shall be filled for the unexpired term in the same manner as the original appointment. In the event that more than one facility is licensed to be built in the state, the committee as designated in RSA 162-F:15, II shall serve in the same capacity, except that the appointed member who is a resident of the city or town shall be selected in the manner prescribed by this section.

**SOURCE**

1981, 109:2 eff. May 4, 1981.

**17.**

Chapter	Public Safety and Welfare - Electric Power Plant, Transmission Siting and Construction Procedure
Subdivision	Decommissioning of Nuclear Electric Generating Facilities
Section	162-F:16 Overlapping Jurisdictions

If a facility is located in more than one city or town, for the purpose of selecting a nuclear decommissioning financing committee, it shall be deemed to be located in the city or town in which the largest part of the main nuclear reactor building is located.

**SOURCE**

1981, 109:2, eff. May 4, 1981.

18.

Chapter	Public Safety and Welfare - Electric Power Plant, Transmission Siting and Construction Procedure
Subdivision	Decommissioning of Nuclear Electric Generating Facilities
Section	162-F:17 Organization of Committees

I. The temporary chairman, who shall be the chairman of the public utilities commission, shall call an organizational meeting within 90 days of the effective date of this subdivision. At the organizational meeting, the committee shall select a chairman to serve for a 3-year term, elect such other officers as the members shall determine, and establish a schedule of meetings for determining the requirements of the decommissioning fund. The committee shall determine the requirements for the fund and shall prepare a payment schedule under RSA 162-F:19 on or before October 1, 1982.

II. In the event that additional nuclear electric generating facilities receive certificates of site and facility, each committee shall organize within one year of the receipt of such certificate.

III. After the requirements for the funds have been established, the committees shall meet at least once a year and, for good cause, the committees may increase or decrease the amount of the funds pursuant to RSA 162-F:22, I, or may alter the funding schedules because of changed circumstances delineated in RSA 162-F:22, II. Each committee may hire such temporary help as it deems necessary to carry out its duties under this subdivision. The appointed resident member of each committee is authorized \$40 for each day actually engaged in the duties of the committee.

**SOURCE**

1981, 109:2, eff. May 4, 1981.

19.

Chapter	Public Safety and Welfare - Electric Power Plant, Transmission Siting and Construction Procedure
Subdivision	Decommissioning of Nuclear Electric Generating Facilities
Section	162-F:18 Expenses of Committee

The reasonable expenses of each committee, including clerical and technical assistance, shall after approval by the public utilities commission be a charge against the owner or owners of the facility.

**SOURCE**

1981, 109:2, eff. May 4, 1981.

20.

Chapter	Public Safety and Welfare - Electric Power Plant, Transmission Siting and Construction Procedure
Subdivision	Decommissioning of Nuclear Electric Generating Facilities
Section	162-F:19 Decommissioning Fund Established

I. A separate nuclear decommissioning financing fund shall be established in the office of the state treasurer for each nuclear electric generating

facility in the state. The monies in such fund shall not be subject to any federal or state taxes and shall not provide any monetary profit to the owner or owners of the facility.

II. The committee shall establish a regular monthly schedule for payment of monies into the fund by the owner or owners of the facility. The monthly payment shall not be less than necessary to reach the specified amount needed for decommissioning as determined by the committee. The collection of money and payment to the fund shall commence in the billing month which reflects the first full month of service from the facility.

III. The public utilities commission shall permit the utility to charge its customers on a per kilowatt hour basis the amount it pays directly into the fund created under this section. The charge, as determined by the public utilities commission, shall be designated a nuclear decommissioning charge and shall be separately stated on the customer's billing statement.

**SOURCE**

1981, 109:2, eff. May 4, 1981.

**21.**

Chapter	Public Safety and Welfare - Electric Power Plant, Transmission Siting and Construction Procedure
Subdivision	Decommissioning of Nuclear Electric Generating Facilities
Section	162-F:20 Administration of Fund

I. The state treasurer shall administer each fund established under this subdivision. The treasurer and the committee shall take every reasonable precaution to preserve the integrity of each non-taxable fund. Interest, dividends and other earnings of the fund shall, after deducting the expenses of administering the fund, be added to the fund and shall be considered payments to the fund until the specified amount is reached.

II. Upon completion of decommissioning, any earnings of the fund in excess of the specified amount, after deducting the reasonable expenses of administration, shall be returned to the owner or owners required to make deposits in such fund and shall cause an adjustment of the rates paid by the utility's customers. The committee, upon completion of decommissioning of the facility, shall forward a report to the public utilities commission relative to the status of the account and the surplus to be derived by the owner or owners of the facility. Based on the committee's report and any other information the public utilities commission may request, the commission shall determine an equitable method for a reduction in the rates charged to the utility's customers to compensate for the overpayment to the fund.

**SOURCE**

1981, 109:2, eff. May 4, 1981.

**22.**

Chapter	Public Safety and Welfare - Electric Power Plant, Transmission Siting and Construction Procedure
Subdivision	Decommissioning of Nuclear Electric Generating Facilities
Section	162-F:21 Funding Requirements Established; Report; Public Hearing

I. Each committee shall hold at least one public hearing to receive information on funding requirements for each fund. The committee shall have the authority to subpoena witnesses and administer oaths and to compel by subpoena duces tecum the production of any accounts, books, contracts, records, documents, memoranda and papers in order to determine the amount needed for the fund.

II. The amount of the fund shall be sufficient to cover all costs of decommissioning the facility when carried out by methods which have been proven to be workable and capable of achieving and maintaining the level of decommissioning required by the United States Nuclear Regulatory Commission or its successor organization, or standards set by any state agency with jurisdiction over decommissioning which are not less than those levels set by the United States Nuclear Regulatory Commission.

III. Each committee shall rely on all available data and experience in determining the amount of such fund including, but not limited to, information from the United States Nuclear Regulatory Commission or its successor organization; the public utilities commission; the owner or owners of the facility; counsel for the public appointed under RSA 162-F:9; counsel for the legislative utility consumers council; and relevant construction cost indices. The committee shall publish a transcript of all proceedings during which information was presented or offered into testimony and a detailed analysis of the facts and figures used in determining the amount of the fund.

IV. Following the committee's deliberation and prior to final hearing, the plan for scheduled payments into the fund and relevant evidence, including the transcripts and analysis published pursuant to RSA 162-F:21, III, shall be available for public review in the clerk's office of the city or town where the facility is located and in the office of the public utilities commission at least 30 days prior to the one or more public hearings on the committee's proposed plan. At least one hearing shall be held in the city or town where the facility is located. A notice of the time and place of each hearing shall be posted in 2 appropriate public places in the city or town where the facility is located and shall be printed at least twice in a newspaper of general circulation for that city or town and in a newspaper of state-wide circulation 2 weeks prior to each hearing. Testimony presented at the hearings held pursuant to this paragraph shall be taken into consideration by the committee when they formalize the payment schedule plan. All testimony shall be transcribed and made a permanent record.

#### SOURCE

1981, 109:2, eff. May 4, 1981.

23.

Chapter	Public Safety and Welfare - Electric Power Plant, Transmission Siting and Construction Procedure
Subdivision	Decommissioning of Nuclear Electric Generating Facilities
Section	162-F:22 Changes in Funding Requirements

I. At any time during the energy-producing life of the facility the committee may determine whether the amount of the funds shall be increased or decreased for reasons including, but not limited to, changes in circumstances, need, or

technological advances. Prior to altering the amount of the fund, the committee shall hold at least one public hearing in the city or town where the facility is located. All testimony shall be transcribed and made a permanent record.

II. (a). If during the anticipated energy-producing life of the facility:

(1) a state or federal agency with jurisdiction orders the facility to be decommissioned, any charges included on utility customers' billing statements pursuant to RSA 162-F:19, III shall be discontinued within 30 days after the decommissioning order is issued;

(2) the owner or owners voluntarily close the facility for more than 6 months other than for scheduled or unscheduled repairs, any charges included on utility customers' billing statements pursuant to RSA 162-F:19, III shall be discontinued within 30 days after the end of the 6-month closing;

(3) the public utilities commission ascertains the facility is no longer generating electrical energy and that decommissioning of the facility should be commenced because of such non-use, any charges included on utility customers' billing statements pursuant to RSA 162-F:19, III shall be discontinued within 30 days after the commission's determination is made.

(b) Upon the discontinuation of customer billing for the fund, the committee shall institute a revised schedule for funding requirements to cover the expenditures of the decommissioning. The revised funding schedule may include, but not be limited to, a resumption of customer charges authorized pursuant to RSA 162-F:19, III, payments made by the owner or owners separate from customer charges, and available revenue sources from the federal and state governments. The committee shall hold at least one public hearing relative to establishing the revised funding schedule consistent with the public hearing requirements delineated in RSA 162-F:21. All testimony shall be transcribed and made a permanent record. Any funding schedule which includes the assessment of charges to utility customers shall be reviewed and approved by the public utilities commission pursuant to RSA 162-F:19, III.

#### SOURCE

1981, 109:2, eff. May 4, 1981.

24.

Chapter	Public Safety and Welfare - Electric Power Plant, Transmission Siting and Construction Procedure
Subdivision	Decommissioning of Nuclear Electric Generating Facilities
Section	162-F:23 Use of Fund

The fund shall remain intact until the beginning of a facility's decommissioning. The committee shall review all expenditures from such fund during actual decommissioning to properly maintain the fund's tax-exempt status. The unused portion of the fund shall revert to the owner or owners at the completion of decommissioning pursuant to RSA 162-F:20, II. If perpetual, continual surveillance of a facility is necessary, the fund shall be maintained at a level sufficient to yield income to maintain such surveillance.



**SOURCE**

1981, 109:2, eff. May 4, 1981.

**25.**

Chapter	Public Safety and Welfare - Electric Power Plant, Transmission Siting and Construction Procedure
Subdivision	Decommissioning of Nuclear Electric Generating Facilities
Section	162-F:24 Enforcement

The superior court may enjoin any act in violation of a determination of a nuclear decommissioning financing committee, or it may require the owner or owners to comply with any determination or order of such committee. Failure by an owner to make the payments required by this subdivision shall create a debt owing to the state which may be collected by the attorney general in an action at law. If any owner fails to pay any judgment ordered by a court of competent jurisdiction, the attorney general may levy against the property of such owner to satisfy such judgment.

**SOURCE**

1981, 109:2, eff. May 4, 1981.

**26.**

Chapter	Public Safety and Welfare - Electric Power Plant, Transmission Siting and Construction Procedure
Subdivision	Decommissioning of Nuclear Electric Generating Facilities
Section	162-F:25 Penalty

Any person who wilfully violates any order or determination of a committee shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.

**SOURCE**

1981, 109:2, eff. May 4, 1981.

**27.**

Chapter	Public Safety and Welfare - Electric Power Plant, Transmission Siting and Construction Procedure
Subdivision	Decommissioning of Nuclear Electric Generating Facilities
Section	162-F:26 Appeal

Any person who is aggrieved by an order or a decision of a nuclear decommissioning financing committee may appeal under RSA 541.

**SOURCE**

1981, 109:2, eff. May 4, 1981.